

DOCUMENT RESUME

ED 130 185

CG 010 844

TITLE Controlled Confrontation: The Ward Grievance Procedure of the California Youth Authority. An Exemplary Project.

INSTITUTION National Inst. of Law Enforcement and Criminal Justice (Dept. of Justice/LEAA), Washington, D.C.

PUB DATE [Feb 76]

CONTRACT J-LEAA-014-74

NOTE 17p.

AVAILABLE FROM Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (HC \$0.35, stock number 027-000-00384-2, there is a minimum charge of \$1.00 for each mail order)

EDRS PRICE MF-\$0.83 HC-\$1.67 Plus Postage.

DESCRIPTORS Adolescents; Arbitration; *Conflict Resolution; Corrective Institutions; *Grievance Procedures; Guides; *Institutionalized Persons; Models; *Prisoners; Program Descriptions; *Youth

ABSTRACT

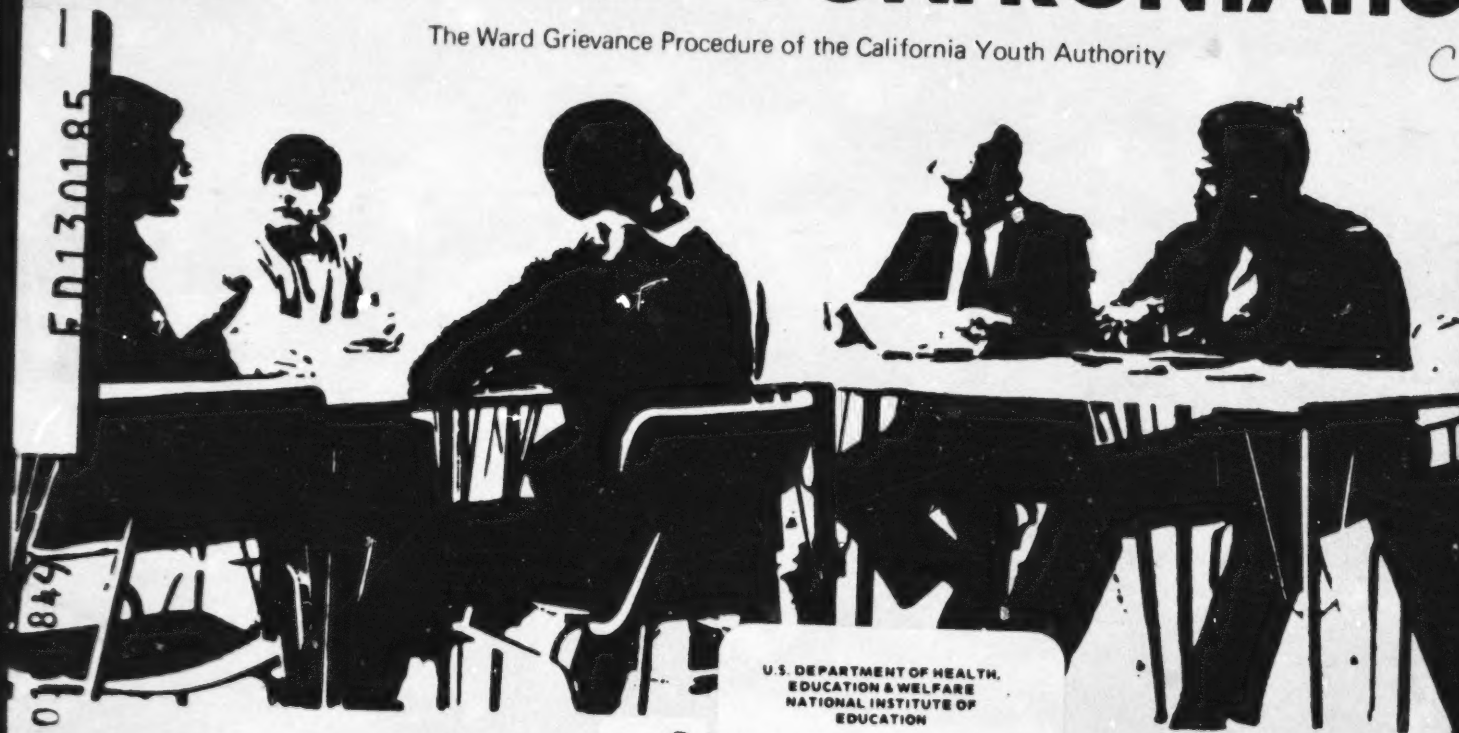
The Ward Grievance Procedure of the California Youth Authority is one of 17 programs that earned the National Institute's "Exemplary" label. This brochure provides the requisite practical information for those who wish to test or consider testing the ward grievance procedure. The program was developed as a way of dealing with the questions raised by the issues of whether an inmate has the right to make suggestions about the way his life is regulated during incarceration and what kinds of grievance procedures are possible and permissible to prisoners. The program attempts to adopt the open collective negotiations and independent arbitration tradition to the prison environment. The program illustrates that prison tensions can be eased through a grievance procedure such as that described. The procedure has two formal features which are considered to have promoted its success: (1) grass roots problem solving by line staff and inmates who conduct hearings together and with equal decision-making authority; (2) inmate appeal to outside arbitration. The procedure deals mainly with individual problems, policy issues and ward staff confrontations. The process has three stages: ward-staff committee hearing, appeal, and arbitration. Almost half the grievances are settled at the first stage, while only two percent require outside arbitration. (NG)

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The Ward Grievance Procedure of the California Youth Authority

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An Exemplary Project

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The Ward Grievance Procedure of the California Youth Authority is one of 17 programs which have earned the National Institute's "Exemplary" label. Projects are nominated through the LEAA Regional Offices and the State Planning Agencies and are examined by an independent evaluator to verify their:

- Overall effectiveness in reducing crime or improving criminal justice
- Adaptability to other jurisdictions
- Objective evidence of achievement
- Demonstrated cost effectiveness

Validation results are then submitted to the Exemplary Project Advisory Board, made up of LEAA and State Planning Agency officials, which makes the final decision.

For each Exemplary Project, the National Institute publishes a range of information materials, including a brochure and a detailed manual. Publications are announced through the National Criminal Justice Reference Service. To register for this free service, please write: NCJRS, P.O. Box 24036, S.W. Post Office, Washington, D.C. 20024.

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

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Office of Technology Transfer
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Prepared for the National Institute of Law Enforcement and Criminal Justice,
Law Enforcement Assistance Administration, U.S. Department of Justice,
under contract number J-LEAA-014-74.

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Stock Number 027-000-00384-2

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FOREWORD

Does an inmate have the right to make reasonable suggestions about the way his life is regulated during incarceration?

During the past decade, corrections departments across the country have faced unprecedented pressure to confront this question, answer it constructively, and find a practical means of settling inmate grievances.

The question has surfaced in bitter and costly conflict within institution after institution. And it has been echoed loudly outside the corrections world by powerful political and social groups.

The roots of conflict over the legitimacy of grievances lie deep in our history. The American experience in both the governmental and industrial spheres has produced a tradition of formal conflict resolution through open collective negotiations and independent arbitration.

Starting just a few years ago, concerned corrections professionals, together with inmates and outside arbitrators, began adapting this tradition to the unique environment of prison society.

The Ward Grievance Procedure, developed in California Youth Authority institutions, is the major pioneer program to emerge and has been named an Exemplary Project by the National Institute.

For those who wish to test or consider testing the WGP program, this brochure gives the requisite practical information. A detailed operations manual is now in preparation; publication will be announced through the National Criminal Justice Reference Service.

Gerald M. Caplan
Director
National Institute of Law
Enforcement and Criminal
Justice
February 1976

1. WHAT IS THE WARD GRIEVANCE PROCEDURE?

All that was at issue was a beard.

And in prison, a beard is enough to cause tension and conflict. On one side was the Director of the California Youth Authority. He runs a correctional system which did not permit inmates to grow beards . . .

On the other side was a 21-year-old inmate of the Karl Holton school. He felt that inmates ought to be allowed to grow beards . . .

Their confrontation was noteworthy in three respects:

1. There was no violence.
2. There was no costly litigation.
3. The inmate won.

Even more remarkable, the *way* the matter was resolved enabled the Director to quickly alter departmental policy without losing prestige, authority or political power.

Fair Mediation

The inmate's victory was achieved before a three-party arbitration panel, presided over by a former Regional Director of the Federal Mediation and Conciliation service. They decided in favor of the inmate, two to one. And the California Youth Authority (CYA) Director accepted their mediation as fair.



Allen F. Breed, Director of California Youth Authority

The Real Victory

But the real victory went to both sides. They proved prison tension can be eased, like industrial tension through negotiation and mediation.

What controlled the confrontation was a program: The Ward Grievance Procedure, a milestone experiment launched by the CYA.

(Don't let the words ward or youth authority mislead you. Recently over 50 percent of all CYA commitments have been from the adult criminal courts. Their crimes — assault, robbery and homicide — are similar to those of inmates in California's adult institutions, and the mean age at Karl Holton is 19.)

Grass Roots Breakthrough

The Ward Grievance Procedure is no longer just an experiment. The California Youth Authority has adopted WGP in every type of correctional

institution. Large (1,200 wards) and small (25 wards). Rural (forestry camps) and urban (Los Angeles community houses). And in short-term reception centers.

In hundreds of cases, WGP has provided safe, sane channels for encounters over issues ranging from personal hygiene to constitutional rights.

WGP has two unique and formal features which promote success in situations where ombudsman programs and inmate councils have failed.

1. Grass roots problem-solving by line staff and inmates. They conduct open hearings *together*, with equal decision-making authority.
2. Inmate appeal to outside arbitration.

The impact of WGP has gone beyond California. Procedures pioneered by WGP have spread to New York, Colorado, and South Carolina.

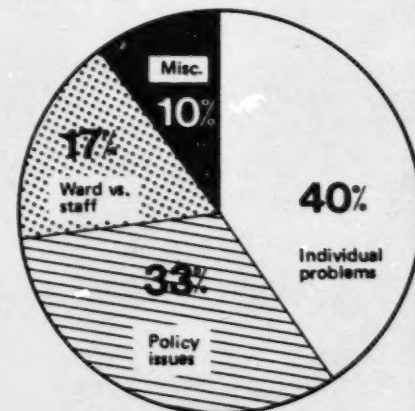
2. WHAT KIND OF TENSIONS DOES WGP EASE?

From September 1973 to April 1975, CYA classified WGP grievances in seven of sixteen institutions. The total, 1,496, breaks down into four areas:

1. *Individual problems:* A ward's complaint about how a rule was applied to him. 592 grievances (about 40 percent of the total).
2. *Policy issues:* A challenge of the rule itself. 498 grievances (about 33 percent).
3. *Ward vs. staff:* A ward's complaint about an arbitrary act by staff. 252 grievances (17 percent).
4. *Miscellaneous:* A ward's complaint about a fellow ward, faulty equipment, inadequate physical facilities. 154 grievances (10 percent).

Seriousness of Problem

Most of these grievances are commonplace issues. They are the kind that get serious only when people feel they aren't being taken seriously.



But the fact that WGP decisions are put in writing at each stage in the hearing and review process shows the grievant he is indeed taken seriously — win or lose.

Take John S. at Youth Training School Ontario. He won.

Radios and record players would be allowed on a nine-month trial basis in Unit I beginning November 1, 1974.

So did Phillip E. at Youth Training School Ontario.

The Impartial Review Panel cannot effect a cure for the Grievant's skin condition, nor can we insist that the doctor release professional medical records to the patient himself, but . . . the YTS doctor will refer the Grievant to the Riverside General Hospital for treatment . . .

Arthur A. of Youth Training School Ontario lost.

The School's policy of accounting for each individual at the 4:20 count is reasonable, in the interest of security, and should not be changed. The policy should be written, available and clear . . .

Even in losing, Arthur A. won clarification of the policy he challenged. He won careful consideration of his complaint through three levels of review.

The methods that made this possible can be adapted by other correction systems.



Grievant listening to his case being presented at YTS, Ontario

3. HOW DOES WGP WORK?

The Ward Grievance Procedure works on three principles:

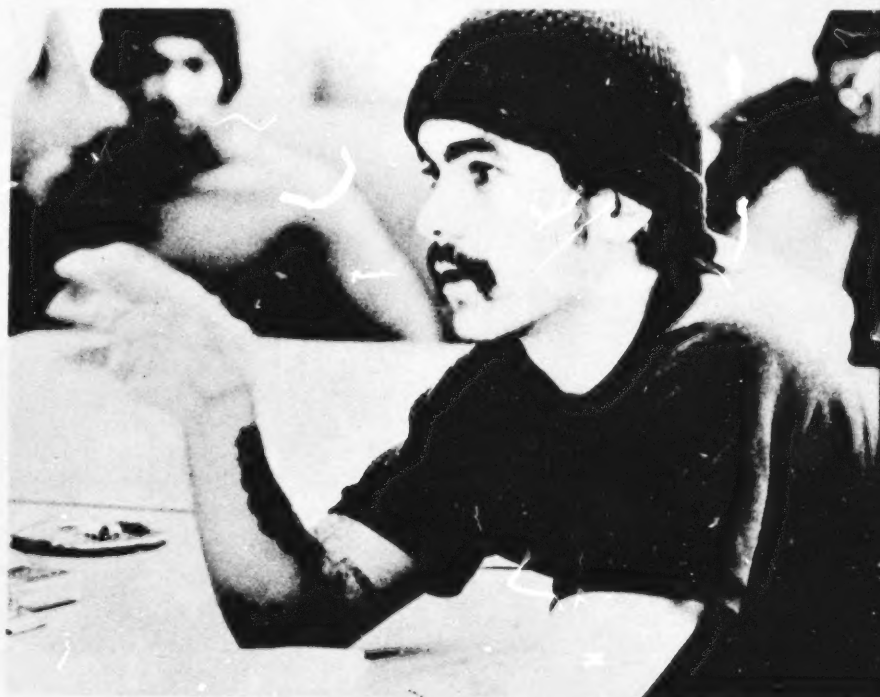
- The role of the confined is not just to file grievances, but to help settle them.
- Wards and the lowest level staff must work together to resolve disputes. Otherwise, solutions will work on paper but not in practice.
- Both sides must be able to turn to an independent party for an unbiased view.

Wards as Grievance Officials

Institutional guidelines specify that each living unit will elect grievance clerks from the ward population. The clerks have proved to be influential grass roots officials. From the department's point of view, they act as shop stewards, or "yard lawyers" providing counsel and leadership.

WGP allows grievants to have a representative of their choice. Often

the chosen advocate is a grievance clerk.



Ward presenting case on behalf of other ward at YTS, Ontario

First Step: Ward-Staff Committee Hearing

The grievant's first formal recourse is a hearing before his peers and an equal number of line staff. The basic structure of the Ward-Staff Committee was designed at Karl Holton by inmates, line staff and consultants from the Center for Correctional Justice, Washington, D.C. There are four voting members: Two wards and two staff members. The fifth member, drawn from middle management, serves as non-voting chairperson and mediator.

Naturally, the very existence of this "court" creates a climate for settling out of court. Many grievances are resolved informally, without the hearing.

Second Step: Appeal

A grievant has the right to appeal Ward-Staff Committee decisions to his Superintendent or, in some cases, the Director. The appeal serves a number of important purposes:

1. The prospect of administrative review puts added pressure on wards and line staff to work out meaningful resolutions.
2. Top management is brought into the grievance procedure. They get a chance to respond and a reason to stay interested in WGP.
3. Traditional stereotypes are shaken. Grievants find themselves appealing a decision of their peers to the Superintendent.

Third Step: Arbitration

The third and final step brings an outside professional arbitrator into the picture. The arbitrator chairs a three-person panel in which one of the other two members speaks for the grievant and one for the administration.

The department, of course, retains the final say. But although the panel can only advise, the prestige of the arbitrator gives its actions imposing weight.

The CYA has been able to bring in top, well-known arbitrators, all on a volunteer basis.

Safeguards

The CYA's carefully drawn guidelines for WGP⁹ specify that there will be no reprisals whatsoever for filing a grievance. What protects the ward — and wins his support — is the formality of the process. WGP permits no arbitrary acts. All decisions, regardless of level, must be put in writing. If the decision prescribes taking a specific action, the written response must set a deadline for acting.

4. WHAT'S THE WGP TRACK RECORD?

The CYA's program of controlled confrontation has worked. WGP performance has exceeded expectations.

Successful Grievances

Wards have found they can change their environment through constructive, legal measures rather than angry confrontation. Statistics through April, 1975 show that a majority (51 percent) of grievance dispositions upheld the grievant. An additional 20.2 percent of the dispositions partially upheld the grievant through some sort of compromise. So wards have obtained redress about 70 percent of the time.

Ward-Staff Interaction

In the early days of WGP, both critics and supporters were pessimistic about the capability of wards and line staff to do anything but oppose each other. Yet there was no more

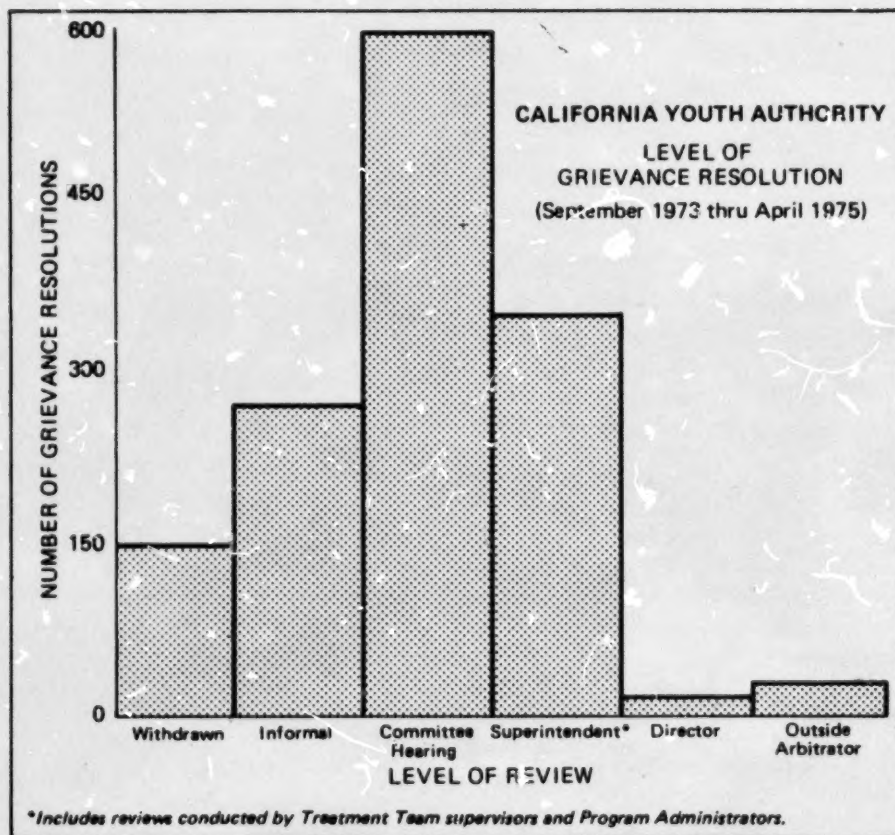
important test of the program than its effectiveness in promoting constructive dialogue at the grass roots level.



Staff member and ward on grievance committee at YTS, Ontario.

WGP was a dramatic surprise, as the accompanying bar chart shows. Wards and staff talk to each other and work grievances out together. They work things out so well that, of the 1,422 grievances through April, 1975, nearly 600 were settled at the first level of review — the ward-staff committee meeting in the grievant's living unit. By far, the largest number of complaints were resolved at the first level.

⁹Excludes 75 cases pending.



Effect of Outside Arbitrators

The next largest number, over 350, were settled at the second level, the superintendent. This is understandable given the multitude of grievances filed on issues of policy.

Only 28 grievances, 2 percent of the total, needed outside arbitration to produce a settlement.

The 2 percent is encouraging for two reasons:

1. The percentage is so small it shows that the two in-house levels of review have performed productively.
2. The percentage is not so small as to render the outside arbitration provision insignificant. Wards know that arbitration is genuinely available if needed. This makes it easier to trust W at all levels.

Perhaps that's why about 20 percent of the grievances were resolved by ward and staff informally, prior to

hearing by the grass roots committee.

Everyday Impact

The impact of WGP has gone beyond formal individual grievances into day-to-day personal relationships. WGP has created new roles of responsibility for wards, and fostered non-violent feedback.

Staff members say WGP builds staff competence, improves communication, and makes it easier to act favorably when a ward suggests something.

Meanwhile, wards who used to see staff as simply evil and repressive now tend to use milder descriptions, such as "over-burdened and inefficient."

So the WGP track record is excellent.

But what exactly makes it work, in practice as well as on paper?

5. WHAT MAKES WGP WORK?

It's fairly easy to see why WGP has performed so well in the CYA system. The key contributing factors stand the test of plain common sense as well as progressive correctional practice.

Inmates Must Participate

The CYA wards trust their grievance procedure because it wasn't imposed on them. Instead, they helped create it, participating actively in the design phase.

Highest Officials Must Support It

Industrial arbitration would be worthless if high corporate management had no commitment to the arbitration process. The same is true in a corrections environment. Without active, interested support from top CYA officials, the vital grass roots involvement would wither, training would slacken off, and the spirit would drain out of the entire program.

Make It Easy

People don't use channels of communication unless they're easy to use. The CYA takes pains to make filing, representation, and the rest of the procedure simple and accessible to all.

Get Expert Advice

The CYA chose to invest in planning and design consultation from a group with known expertise in grievance procedures, the Center for Correctional Justice. The investment paid off in productivity and efficiency.

Inmates and Line Staff Must Collaborate

A productive Ward-Staff Committee depends on line staff's acknowledging that inmates can raise reasonable issues. And inmates must acknowledge that line staff members are capable of proposing reasonable solutions. The CYA got the two sides together in the design phase, and con-

tinues to promote the concept that WGP is by both and for both.

Train and Keep Training

Industry regards negotiation and mediation as a difficult science with exact, learned techniques. So does the CYA and its consultants, CCJ. They put critical emphasis, in the planning stage, on developing a strong training program. They sought and received help from the Institute for Mediation and Conflict Resolution, New York, New York.

With WGP, training never stops. Slide shows, films, brochures and role-playing are used to introduce the program to new inmates and line staff, and to re-train veteran personnel.

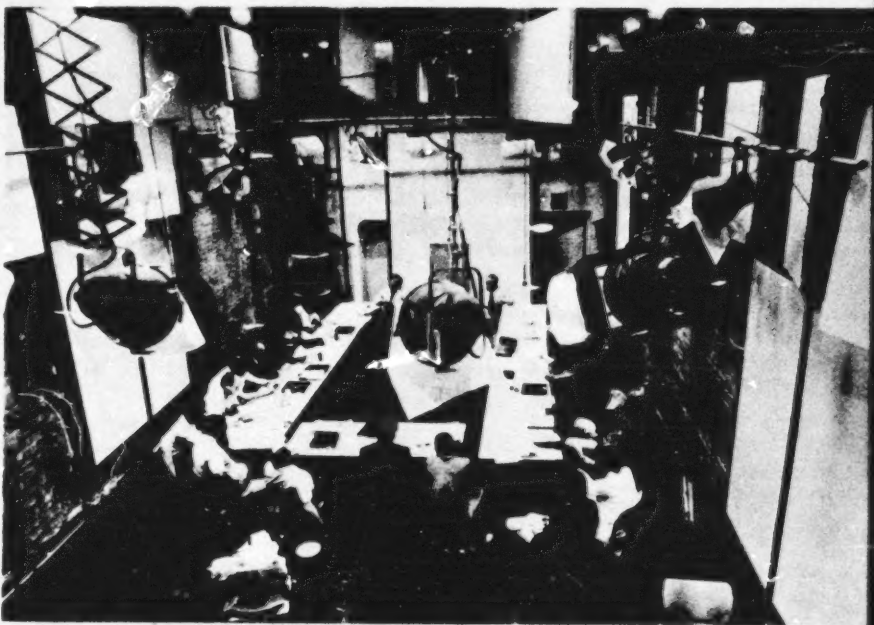
Monitoring

The CYA insists on regular audits of every facet of WGP. The audit list includes ward participation, emergency grievance procedures, informal reso-

lutions, reprisals, access to appeals, clerk duties and more. Each Superintendent must submit a monthly report on all of these areas.

An Investment

The best investment you can make in WGP is energy and enthusiasm. Now what about the money?



California corrections officials receiving training at Institute for Mediation and Conflict Resolution in New York.

6. WHAT DOES WGP COST?

WGP doesn't cost much, based on what the CYA spent to start and run the program the first two years.

Total Operating Budget

The CYA says \$244,301 was spent on WGP from July, 1973 to June, 1975. Nearly half of that two-year sum, \$108,709, was spent in the first year in designing and introducing the procedure.

Annual Operating Cost

Not counting one-time first year design costs, WGP runs on a yearly estimate of \$135,592. This pays for one full-time state-wide coordinator, general administration, and statewide training of staff, wards, and volunteer arbitrators.

People Savings

An ever-escalating payroll is the common bane of all enterprise, private and public. But many WGP personnel

come free — a byproduct of the very mechanisms that make WGP work. There could be no WGP without Ward Grievance Clerks. And the clerks handle much of the time-consuming paperwork at the first levels of review.

Secondly, there could be no WGP without outside arbitrators. And CYA has had no problem securing the services of the best, on a volunteer basis, paying only administrative costs and individual travel expenses to the arbitrator.

Bureaucratic Proliferation?

It appears that WGP can function without geometrically breeding new layers of bureaucracy. At the outset, the CYA decided to incur two one-time costs: (1) consultation with the Center for Correctional Justice and (2) the evaluation effort. Beyond that, existing resources would have to handle the program. And they have. Although considerable staff resources have been reassigned, and workload priorities changed, no new positions have been created.

7. WILL WGP FIT MY SYSTEM

The answer is probably **yes** . . . because WGP replicas are already cropping in key systems.

In New York State, the legislature authorized the Commission of Correction to farm out inmate grievances individual arbitrators.

In Colorado and South Carolina, Corrections Department officials plan to institute grievance procedures on an experimental basis.

In California, the Department of Corrections is preparing to borrow CYA arbitration techniques for a test in one of its adult prisons.

Universality

WGP can work anywhere because the problems WGP confronts exist everywhere. And, potentially, every system can muster the single most important resource for making WGP work: A complete commitment to training

at all levels. Intensive start-up training . . . from the Superintendent on down. And ongoing training of staff and new inmate groups.

Applicability to Older Inmates

The point is worth repeating: the fact that the Youth Authority has

successfully operated WGP doesn't mean it's a juvenile program. Close observers actually believe the opposite — that the youth of CYA wards tends to impede the program.

They say inmates in adult institutions would be more patient with the procedures, because they are older and

more mature. Older inmates also have longer terms than wards, time in which to develop a stronger commitment to the procedure.

CYA Welcomes Evaluation

You can learn everything you need to know about WGP, and you can see it in action. The CYA invites corrections professionals to study their records, ask questions, and observe grievance proceedings.



California corrections officials and IMCR staff members in a simulated mediation session.